

111963

LAW OFFICES

HAWS & BURKE

A PROFESSIONAL CORPORATION

15 RITTENHOUSE PLACE

ARDMORE, PA 19003

(215) 649-5200

FAX (215) 649-7648

H LESTER HAWS

927-1966

CHRISTOPHER J MURRAY CPA

TAX CONSULTANT

RECEIVED

THOMAS J BURKE SR

THOMAS F DELANEY

THOMAS J BURKE JR

DANIEL S COVAL JR

DAVID T SCOTT

ROBERT E DELANEY

CHRISTOPHER GATTI

AUG 31 1993

RECEIVED

August 27, 1993

Joseph J.C. Donovan
Associate Regional Counsel
United States Environmental
Protection Agency
841 Chestnut Building
Philadelphia, PA 19107-4431

Re: Estate of Clifford A. Rogers, Deceased
Havertown PCP Site

Dear Mr. Donovan:

We acknowledge receipt of your letter of August 26, 1993 at 3.56 p.m. We immediately called Clifford Rogers, Jr. and fedexed him a copy of the letter. Only Mr. Rogers and Mellon Bank, the executors, have the authority to make any decisions involving the property. I explained to him that this was an emergency that arose three weeks ago but now required instant response. He asked that he be allowed to read your letter before responding.

Upon my return to the office at 12:10 pm today, I was notified of your unilateral action on the estate property and your threat of court fines and newspaper publicity. What happened to the 5 day period mentioned in your letter?

Since I do not have a copy of the United States Code available, I rely upon your opinion that your agency has the power to bar the estate access and to prevent reasonable attempts to eliminate hazardous (non-environmental) problems from the property. The executors did not have possession of this property until the tenant, National Wood Preservers, was finally evicted. Once this was accomplished, the executors believed that all the structures and miscellaneous machinery on the property should be dismantled and removed as soon as practical in order to avoid possible injury to children and other trespassers. The major obstacle to this removal is the lack of funds in the estate. The executors were hopeful that the material could be removed in exchange for salvage value by private contractors.

AR000027

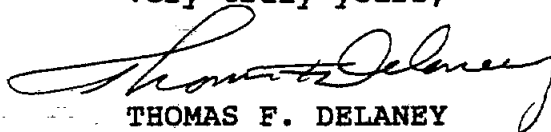
Joseph J.C. Donovan
Associate Regional Counsel
August 27, 1993
Page 2

We have advised the executors to cooperate with your agency. However, the executors still have rights in the property to remedy the potential liability problem of the buildings and machinery.

I would hope that a court would not impose \$25,000 fines because the executors could not agree to what your agency requested within a 12 hour time span. If the agency determines that there is an emergency and has the power to enclose the property on its own, why does the estate have to agree? In view of the fact that this new condition was recently discovered, I believe the executors' response to your request has been reasonable and certainly does not rise to wilful or unlawful conduct requiring the imposition of fines. The only asset in the estate is the property which because of superfund classification has been deemed valueless.

The executors agree to the 14 day period during which time the agency at its expense will station a guard, place new locks, repair the fence and take some additional samples. I would hope we could arrange a meeting with the executors and members of your agency to formulate an overall plan to accomplish the estates' objectives as well as the agency's objectives.

Very truly yours,



THOMAS F. DELANEY

TFD/rd

cc: Janet Voltz w/enc. - Faxed & Mailed
Clifford A. Rogers, Jr. - Federal Express

AR000028